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A BILL

23-1018

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA



To amend, on a temporary basis, the Freedom of Information Act of 1976 to adjust the tolling period for FOIA requests.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “FOIA Tolling Temporary Amendment Act of 2020”.

Sec. 2. The Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 et seq.), is amended as follows:

(a) Section 202 (D.C. Official Code § 2-532) is amended as follows:

(1) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended as follows:

(i) Strike the phrase “Except as provided in paragraph (2) of this subsection” and insert the phrase “Except as provided in paragraphs (2) and (3) of this subsection” in its place.

(ii) Strike the phrase “Sundays, and” and insert the phrase “Sundays, days of the Initial COVID-19 closure, and” in its place.

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26 (B) Paragraph (2)(A) is amended by striking the phrase “Sundays, and”
27 and inserting the phrase “Sundays, days of the Initial COVID-19 closure, and” in its place.

28 (C) A new paragraph (3) is added to read as follows:

29 “(3)(A) For requests made during the Initial COVID-19 closure, a public body
30 shall within 45 days (except Saturdays, Sundays, and legal public holidays) of the end of the
31 Initial COVID-19 closure either make the requested public record accessible or notify the person
32 making such request of its determination not to make the requested public record or any part
33 thereof accessible and the reasons therefor.

34 “(B) If the public record requested during the Initial COVID-19 closure is
35 a body-worn camera recording recorded by the Metropolitan Police Department, the
36 Metropolitan Police Department, upon request reasonably describing the recording, shall within
37 60 days (except Saturdays, Sundays, and legal public holidays) of the receipt of any such request
38 either make the requested recording accessible or notify the person making such request of its
39 determination not to make the requested recording or any part thereof accessible and the reasons
40 therefor.

41 (2) Subsection (d) is amended as follows:

42 (A) Paragraph (1) is amended to read as follows:

43 “(1) In unusual circumstances, the time limits prescribed in subsections (c)(1) and
44 (c)(2) of this section may be extended by written notice to the person making such request setting
45 forth the reasons for extension and expected date for determination. Except for an unusual

46 circumstance set forth in paragraph (2)(D) of this subsection, such extension shall not exceed 10
47 days (except Saturdays, Sundays, days of the Initial COVID-19 closure, and legal holidays) for
48 records requested under subsections (c)(1) of this section and 15 days (except Saturdays,
49 Sundays, days of the Initial COVID-19 closure, and legal holidays) for records requested under
50 subsection (c)(2) of this section. For an unusual circumstance set forth in paragraph (2)(D) of
51 this subsection, such extension shall not exceed 45 days (except Saturdays, Sundays, and legal
52 holidays) after the end of the COVID-19 closure.

53 (B) A new paragraph (2)(D) is added to read as follows:

54 “(D) The need to conduct an on-site review of records that could present a
55 significant risk to health or safety during a COVID-19 closure.

56 (b) Section 207(a) (D.C. Official Code § 2-537(a)) is amended by striking the phrase
57 “Sundays, and” and inserting the phrase “Sundays, days of the initial COVID-19 closure, and” in
58 its place.

59 (c) Section 209 (D.C. Official Code § 2-539) is amended by adding a new subsection (c)
60 to read as follows:

61 “(c) For the purposes of this act, the term:

62 “(1) “COVID 19 closure” means:

63 “(A) A period of time for which the Mayor has declared a public health
64 Emergency pursuant to section 5a of the District of Columbia Public Emergency Act of 1980,
65 effective October 17, 2002 (D.C. Law 14-194; D.C. Official Code § 7-2304.01); or

66 “(B) A period of time during which a public body is closed due to the
67 COVID-19 coronavirus disease, as determined by the personnel authority of the public body.

68 “(2) “Initial COVID-19 closure” means March 11, 2020 through January 15,
69 2021.”.

70 Sec. 3. Repealer.

71 Section 808 of the Coronavirus Support Temporary Amendment Act of 2020, effective
72 October 9, 2020 (D.C. Law 23-130; 67 DCR 12236), is repealed.

73 Sec. 4. Fiscal impact statement.

74 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
75 statement required by section 4a of the General Legislative Procedures Act of 1975, approved
76 October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

77 Sec. 5. Effective date.

78 (a) This act shall take effect following approval by the Mayor (or in the event of veto by
79 the Mayor, action by the Council to override the veto), a 30-day period of congressional review
80 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
81 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
82 Columbia Register.

83 (b) This act shall expire after 225 days of its having taken effect.